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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,720	09/30/2004	Fred Bishop	60655.3917	5719
66170 7590 09/09/2010 Snell & Wilmer L.L.P. (AMEX) ONE ARIZONA CENTER 400 E. VAN BUREN STREET PHOENIX, AZ 85004-2202				
EXAMINER				
COPPOLA, JACOB C				
ART UNIT		PAPER NUMBER		
3621				
NOTIFICATION DATE		DELIVERY MODE		
09/09/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/711,720

**Applicant(s)**

BISHOP ET AL.

**Examiner**

JACOB C. COPPOLA

**Art Unit**

3621

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 27 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621

Continuation of 11. does NOT place the application in condition for allowance because: Applicants are now arguing that Taylor does not meet the limitation "the first format is different from the second format." Under 37 CFR 1.111(b) Applicants have waived their right to argue such limitations at this later time in prosecution. Under 37 CFR 1.111(b), Applicants should have argued this specific limitation in their first reply after Taylor was first asserted by the Examiner to meet the limitation "the first format is different from the second format." Therefore, Applicants should have raised this issue in their reply filed on 09 March 2009. If Applicants believe they have NOT waived the right to argue such limitation, then the previous response (filed on 09 March 2009) is nonresponsive to the Office action mailed on 09 December 2008 and therefore this application is abandoned. See *In re Goodman*, 3 USPQ2d 1866 (ComrPats 1987). For Applicants' benefit, the Examiner finds Applicants' right to argue the limitation "the first format is different from the second format" has been waived. Nevertheless, a review of the prior art meets the limitation "the first format is different from the second format." As shown, in as early as the Examiner's action mailed on 09 December 2008, fig. 4 of Taylor shows at least two different credit cards and corresponding data sets, AMEX and VISA. It is well known that at least the "account #" column of Taylor's fig. 4 data set would contain data of different formats for AMEX vs. VISA. For example, see at least Walker et al. (U.S. 6,330,544 B1; c. 12, ll. 37-55) discussion on the format of standard 16 digit card number (e.g., that of VISA) vs. the AMEX format of 15 digits. See also, Armes (U.S. 2001/0034720 A1; ¶ 0054) discussion on the 16 digit format vs. the AMEX 15 digit format, and specifically in ¶ 0054, "each company's card numbers comply with that company's standardized format." Therefore, fig. 4 of Taylor meets the specific limitation discussed above. With respect to claim 14, Applicants argue "it is not disclosed that a user could select the percentages from specified accounts during a transaction, which is part of 'receiving the selection' to complete a transaction request." In response to Applicants' argument that the references fail to show certain features of Applicants' invention, it is noted that the features upon which applicant relies (i.e., "a user could select the percentages from specified accounts during a transaction") are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Nevertheless, ¶ 0225 of Russell discusses the user selecting an account during a transaction. This in combination with ¶ 0037 would make obvious that the user can select the two accounts with %'s also during the transaction. See also Taylor c. 4, ll. 20-30 for discussion on user selecting multiple accounts during transaction. Therefore, the Final Rejections remain.